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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 TYLER BONNER,

10 Plaintiff,

11 v.

12 KILOLO KIJAKAZI, ACTING
13 COMMISSIONER OF THE U.S. SOCIAL
14 SECURITY ADMINISTRATION,

15 Defendant.

16 CASE NO. C20-1572 DWC

17 ORDER AFFIRMING ORDER DECLINING
18 TO VOLUNTARILY RECUSE

19 This matter is before the Court, under the local rules, for review of United States
20 Magistrate David W. Christel's order denying Plaintiff's request that he voluntarily recuse
21 himself from this case. Dkt. #39; LOCAL RULES W.D. WASH. LCR 3(f) (order denying voluntary
22 judicial recusal referred to the Chief Judge for review). Having reviewed the matter, the Court
23 affirms Judge Christel's order.

24 **A. Background**

25 Plaintiff initiated this action to obtain judicial review of the United States Social Security
26 Administration's ("SSA") final decision denying his application for disability insurance and
27 supplemental security income benefits. Dkt. #5. Plaintiff maintained that the administrative law
28 judge's decision, subsequently affirmed by SSA's Appeals Council, was based on errors of law

1 and was unsupported by substantial evidence. *Id.* Judge Christel disagreed, and affirmed the
 2 administrative law judge's decision. Dkt. #34. Plaintiff quickly filed a motion to alter or amend
 3 the judgment and, in the same motion, sought to have Judge Christel recuse himself from any
 4 further proceedings. Dkt. #36. Judge Christel denied Plaintiff's request for voluntarily recusal,
 5 without addressing the merits of the underlying motion to alter or amend judgment, and referred
 6 the matter to the Undersigned. Dkt. #39.

7 Primarily, Plaintiff takes issue with the tone of Judge Christel's order:

8 Given the tone of the Order, Plaintiff requests that Magistrate Christel recuse
 9 himself from any further adjudication in this case. Plaintiff understands that
 10 Magistrate Christel has a nationwide, well deserved reputation for excellence in
 11 legal reasoning, ethics, and judicial demeanor. Plaintiff's counsel is honored to
 12 be an officer of Christel's court. But in this particular case, perhaps due to the
 13 tense inundation of new *Seila* arguments filed late in the game across the nation,
 14 Magistrate Christel has reacted without his usual professionalism.

15 *Id.* at 8. Additionally, and intertwined with his substantive legal arguments, Plaintiff takes issue
 16 with Judge Christel's judicial decision not to sua sponte impose sanctions on defense counsel.
 17 Dkt. #38 at 3–4. Specifically, Plaintiff points to defense counsel's characterization, quotation,
 18 and citation of a specific case, actions which Judge Christel found "invited ambiguity." *Id.* at 3.¹

16 B. Legal Standard

17 A "judge of the United States shall disqualify himself in any proceeding in which his
 18 impartiality might reasonably be questioned." 28 U.S.C. § 455(a); *see also* 28 U.S.C. § 144.
 19 This includes circumstances where the judge has "a personal bias or prejudice concerning a party,
 20 or personal knowledge of disputed evidentiary facts concerning the proceeding." 28 U.S.C.
 21 § 455(b)(1). Recusal is appropriate if "a reasonable person with knowledge of all the facts would
 22 conclude that the judge's impartiality might reasonably be questioned." *Yagman v. Republic*

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 24 ¹ Plaintiff does not point to any portion of the record where he brought the propriety of sanctions
 before the Court.

1 *Insurance*, 987 F.2d 622, 626 (9th Cir. 1993). This is an objective inquiry concerned with
2 whether there is the appearance of bias, not whether there is bias in fact. *Preston v. United States*,
3 923 F.2d 731, 734 (9th Cir. 1992); *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).

4 **C. Discussion**

5 At the outset, the Court notes that Plaintiff's concerns all stem from Judge Christel's order
6 affirming the administrative action at issue in this case.

7 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality
8 motion. . . . [O]pinions formed by the judge on the basis of facts introduced or
9 events occurring in the course of the current proceedings, or of prior proceedings,
10 do not constitute a basis for a bias or partiality motion unless they display a deep
seated favoritism or antagonism that would make fair judgment impossible. Thus,
judicial remarks during the course of a trial that are critical or disapproving of, or
even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias
or partiality challenge.

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12 *Liteky v. United States*, 510 U.S. 540, 555 (1994). Relying solely on Judge Christel's order
13 resolving the case, Plaintiff sets himself on a difficult course.

14 Additionally, Plaintiff takes issue with the language of Judge Christel's order, although
15 he does not point to any specific passages. Dkt. #36 at 7 ("[T]he tone of the Order [of] this Court
16 is in places not professional and includes moralizing and exasperation, as if Plaintiff has done
17 something wrong."). Notably, and while Judge Christel's legal findings and conclusions may
18 have been set forth more bluntly than Plaintiff would prefer, Plaintiff does not contend that Judge
19 Christel mischaracterizes the record or prior proceedings. Plaintiff's objection, then, is based
20 solely on his subjective opinion of the merits of his case. But, to the extent Plaintiff disagrees
21 with Judge Christel's conclusions and legal analysis, the legal propriety of the order is an issue
22 for further litigation or, if Plaintiff chooses, possibly for appeal.

1 **D. Conclusion**

2 Accordingly, and for the reasons set forth above, the Court finds and ORDERS that Judge
3 Christel's order declining Plaintiffs request that he disqualify himself (Dkt. #39) is AFFIRMED.

4 DATED this 7th day of January, 2022.

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7 RICARDO S. MARTINEZ
8 CHIEF UNITED STATES DISTRICT JUDGE